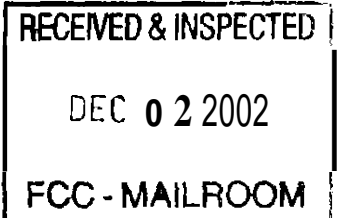


**UNITED STATES OF AMERICA**  
**FEDERAL COMMUNICATIONS COMMISSION**



**Rules and Regulations  
Implementing the Telephone Consumer  
Protection Act (TCPA) of 1991**

) Docket No. CG 02-278  
) Docket No. CC 92-90  
) Docket No. FCC 02-250

**NORTH DAKOTA PUBLIC SERVICE COMMISSION  
INITIAL COMMENTS**

The North Dakota Public Service Commission (NDPSC) appreciates this opportunity to comment in accordance with the Notice of Proposed Rulemaking issued in this matter.

The North Dakota Public Service Commission remains highly concerned with the impacts of telemarketing practices on North Dakotas consumers. **We** take this opportunity to support the proposal of the Federal Communications Commission to establish a national do not call list for the telemarketing industry. Our primary focus for these initial comments is to support the creation of a national do-not-call list that coordinates with and complements, but does not preempt, state activity on the issue.

North Dakota does not currently have a do not call law, although the North Dakota Public Service Commission is considering proposing such a law in the 2003 legislative session. Consequently, North Dakota cannot comment specifically on many of the implementation matters about which the Commission inquired. Our comments focus instead on the need for better consumer protection than that afforded by the company-specific process.

The company-specific process imposes a much greater burden on consumers than any benefit that may result from its use. Consumers must request relief from

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telemarketing almost continuously, call after call, despite their attempts to restrict such intrusive marketing. Practically speaking, consumers must first receive the very calls they do not want in order to activate their right to be removed from the marketers' lists. When coupled with the problems that arise from the automatic dialers, lack of identification by telemarketers, and the consumer's inability to confirm removal from the call list, the company-specific scheme does not produce effective consumer protection.

Currently, the consumer has no practical way of knowing whether or not a particular telemarketer is one from whom the consumer has already requested relief. Marketers often do not identify themselves, and consumers have no way of forcing them to do so ~~at~~ the time of the call. In addition, consumers have no way of knowing when or if their names have been removed from the telemarketers' lists. Unless consumers spend an inordinate and unreasonable amount of time chasing after these answers, they are left at the mercy of the telemarketers. including the unscrupulous ones.

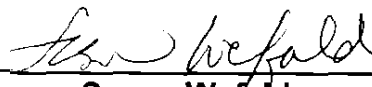
We believe a pro-active do-not-call list is definitely a simpler, more accurate, and more successful method for protecting consumers than the company specific scheme has been. In addition, as the Commission has noted in its query, the do-not-call list method may also be simpler, more efficient and less burdensome for telemarketers, as well.

In creating a national do-not-call rule, we urge the Commission to craft a scheme that coordinates with any that may be adopted by the Federal Trade Commission, and any state that has or will adopt a do-not-call mechanism. We urge the Commission not to preempt the state activity that has led the way and proven the popularity and success of do-not-call lists. It is only through the coordinated efforts of both national and state regulators that consumers will best be protected. It serves no useful purpose to preempt or ignore consumer protections enacted on the state level. Likewise, it will serve no useful purpose for two federal agencies to enact mechanisms that are ill-coordinated.

We wish to again thank the Commission for this opportunity to submit initial comments.

Dated this 20th day of November, 2002

**NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

  
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**Anthony T. Clark**  
Commissioner  
\_\_\_\_\_  
**Susan Wefald**  
President  
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**Leo M. Reinbold**  
Commissioner